

Letter of Transmittal

January 27, 2000

Docket Management System
U.S. Department of Transportation
Room PL 401
400 Seventh Street SW
Washington, DC 20590-0001

Reference: Docket No.FAA-1999-6622: Notice No. 99-20
RIN 2120-AG95
General Rulemaking Procedures

To Whom It May Concern:

Attached hereto is the response to the NPRM regarding the General rulemaking procedures referenced above from Pratt & Whitney (PW), a division of United Technologies Corporation. Pratt & Whitney found the document easier to read and understand and attributes this to the FAA's efforts to use plain language in the preparation of the NPRM. Our attached comments are submitted in an effort to assist the FAA in preparing the Rule that will meet the intent of clarifying the process by which the agency creates aviation rules and regulations and the use of plain language.

Respectfully,

Thomas M. Gonzalez

Thomas M. Gonzalez,
Director, Regulatory Compliance
Pratt & Whitney

Attachment

Pratt & Whitney, a Division of United Technologies Corporation is submitting, in addition to specific section comments provided herein, the following general comments regarding NPRM 11; FAA Docket No. 1999-6622; Notice No. 99-20;

1. *The definitions contained in Sections 11.23, 11.25, 11.29, and the definition for the phrase “immediately adopted” used in Section 11.21 be placed in subparagraphs under a new section labeled “Definitions used in this Part” and placed immediately following Section 11.1. At a minimum, the definitions should be placed before Section 11.21.*
 - *Reason: Pratt & Whitney believes the readability and clarity of all sections using the terms described in the aforementioned sections will be enhanced.*

11.1

- FAA Proposed Language:
To what does this part apply?

This part applies to the issuance, amendment, and repeal of any regulation for which FAA ("we") follows public rulemaking procedures under the Administrative Procedure Act ("APA") (5 U.S.C. 553).

- *Pratt & Whitney accepts the proposed language for this section.*

11.3

- FAA Proposed Language:
What are the most common kinds of rulemaking actions for which FAA follows APA procedures?

(a) FAA follows APA procedures for three major types of rules.

- (1) Rules found in the Code of Federal Regulations;
- (2) Airworthiness Directives issued under part 39 of this chapter; and
- (3) Airspace Designations issued under various parts of this chapter.

(b) You will also find procedures in this part to petition FAA for an exemption from a current regulation. These procedures are modeled on the public rulemaking procedures of the APA.

- *Pratt & Whitney accepts the proposed language for this section.*

11.5

- FAA Proposed Language:
Does FAA follow the same procedures in issuing all three types of rules?

Yes. In general, FAA follows the same procedures for all three rule types. There are some differences as to which FAA official has authority to issue each type, and where you send petitions for the FAA to adopt, amend, or repeal each type. Assume that the procedures in this subpart apply to all three types, except where we specify otherwise.

- *Pratt & Whitney accepts the proposed language for this section*

11.11

- FAA Proposed Language:
How does FAA issue rules?

(a) FAA uses APA rulemaking procedures to adopt, amend, or repeal regulations. To propose or adopt changes to a regulation, FAA may issue one or more of the following documents. We publish these rulemaking documents in the Federal

Register unless we name and personally serve a copy of a rule on every person subject to it.

- (1) An advance notice of proposed rulemaking (ANPRM).
 - (2) A notice of proposed rulemaking (NPRM).
 - (3) A supplemental notice of proposed rulemaking.
 - (4) A final rule.
 - (5) A direct final rule.
 - (3) A final rule with request for comments.
- *Pratt & Whitney recommends the following change to paragraph (a): “FAA uses APA rulemaking procedures to adopt, amend, or repeal regulations. To propose or adopt changes to a regulation, FAA **will** issue one or more of the following documents. We will publish these rulemaking documents in the Federal Register within 30 days.”*
 - *Reasons:*
 - *Pratt & Whitney prefers to have all rulemaking documents published in the Federal Register so we and the industry can keep abreast of actions the agency is taking that may affect other industry members at a later date.*
 - ***Timely notice of all rulemaking documents is essential.***
 - *If the Agency decides not to adopt our proposed language, we would like the Agency to clarify the paragraph and provide examples of when such a discrete distribution of (applies only to those named) rulemaking occurs.*
- *FAA Proposed Language:*
- (b) Each of the rulemaking documents in paragraph (a) of this section generally contains the following information:
- (1) The topic involved in the rulemaking document.
 - (2) FAA’s legal authority for issuing the rulemaking document.
 - (3) How interested persons may participate in the rulemaking proceeding (for example, by filing written comments or making oral presentations).
 - (4) Whom to call if you have questions about the rulemaking document.
 - (5) The date, time, and place of any public meetings FAA will hold to discuss the rulemaking document.
 - (6) The docket number and regulation identifier number (RIN) for the rulemaking proceeding.
- *Pratt & Whitney accepts the proposed language for subparagraphs 1,2,3,5, & 6 of paragraph (b). However, subparagraph 4 appears to be in conflict with the reason for the elimination of Section 11.65 of the current rule. Clarification of the intent of subparagraph 4 is requested.*
 - *If the intent is to hold discussions regarding the rulemaking document, Pratt & Whitney recommends the discussion (questions) be in the form of a written document. We further recommend the document be published in the public domain, including an internet site, so interested parties may access the document.*

11.13

- FAA proposed language:

What is an advance notice of proposed rulemaking?

An advance notice of proposed rulemaking (ANPRM) tells the public that FAA is considering an area for rulemaking and requests written comments on the appropriate scope of the rulemaking or on specific topics. An advance notice of proposed rulemaking may or may not include the text of potential changes to a regulation.

- *Pratt & Whitney accepts the proposed language for this section.*

11.15

- FAA proposed language:

Are there other ways FAA collects specific rulemaking recommendations before we issue an NPRM?

Yes. The FAA obtains advice and recommendations from rulemaking advisory committees. The Aviation Rulemaking Advisory Committee (ARAC) is a formal standing committee comprised of representatives of aviation associations and industry. In conducting its activities, ARAC complies with the Federal Advisory Committee Act and the direction of the FAA. We task ARAC with providing us with recommended rulemaking actions dealing with specific areas and problems. If we accept an ARAC recommendation to change an FAA rule, we ordinarily publish an NPRM using the procedures in this part. The FAA may establish other rulemaking advisory committees as needed to focus on specific issues for a limited period of time.

- *Pratt & Whitney recommends this paragraph be rewritten as follows: “The FAA obtains advice and recommendations from rulemaking advisory committees. The Aviation Rulemaking Advisory Committee (ARAC) is a formal standing committee comprised of representatives of aviation associations and industry. In conducting its activities, ARAC complies with the Federal Advisory Committee Act and the direction of the FAA. We task ARAC with providing us with recommended rulemaking actions dealing with specific areas and problems. After due consideration, if we accept an ARAC recommendation to change a FAA rule, we will publish an NPRM using the procedures in this part. If we do not accept an ARAC recommendation to change a FAA rule, we will publish the recommendation and the reason for our denial in accordance with the procedures governing denial of petitions in this part. The FAA may establish other rulemaking advisory committees as needed to focus on specific issues for a limited period of time.*
- *Reason: Pratt & Whitney believes that recommendations from an ARAC should be treated the same as petitions for rulemaking from the public and industry.*

11.17

- FAA proposed language:

What is a notice of proposed rulemaking?

A notice of proposed rulemaking (NPRM) proposes FAA's specific regulatory changes for public comment and contains supporting information. It includes proposed regulatory text.

- *Pratt & Whitney accepts the proposed language for this section.*

11.19

- FAA proposed language:

What is a supplemental notice of proposed rulemaking?

On occasion, FAA may decide that it needs more information on an issue, or that we should take a different approach than we proposed. Also, we may want to follow a commenter's suggestion that goes beyond the scope of the original proposed rule. In these cases, FAA may issue a supplemental notice to give the public an opportunity to comment further or to give us more information.

- *Pratt & Whitney accepts the proposed language for this section.*

11.21

- FAA proposed language:

May FAA change its regulations without first issuing an ANPRM or NPRM?

FAA may adopt, amend, or repeal regulations without first issuing an ANPRM or NPRM in the following situations:

- (a) We may issue a final rule without first requesting public comment if, for good cause, we find that a notice of proposed rulemaking is impracticable, unnecessary, or contrary to the public interest. We place that finding and a brief statement of the reasons for it in the final rule. FAA calls these rules "immediately adopted" rules. For example, we may issue such a final rule in response to a safety emergency.
- (b) If an NPRM would be unnecessary because we do not expect to receive adverse comment, we may issue a direct final rule.

- *Pratt & Whitney accepts the proposed language for subparagraph (b) of this section. However, recommends the following:*

- *The opening sentence of this section be rewritten as follows: "The FAA normally changes regulations by issuing a final rule after the ANPRM/NPRM process described herein. However, the FAA may adopt, amend, or repeal regulations without first issuing an ANPRM or NPRM in the following situations:"*

- *Reason: Pratt & Whitney believe this will clarify the proposed paragraph without changing the intent.*

- *Paragraph (a) be rewritten as follows: “We may issue a final rule without first requesting public comment if, for good cause, we find that a notice of proposed rulemaking is impracticable, unnecessary, or contrary to the public interest. We would place that finding and a brief statement of the reasons for it in the final rule. FAA calls these rules “immediately adopted” rules. For example, we may issue such a final rule in response to a safety or significant airworthiness emergency or matter.”*
- *Reason: The addition of the “or significant airworthiness” provides the FAA with the flexibility to issue “immediately adopted rules” for other issues or events it feels require such action.*

11.23

- FAA proposed language:
What is a final rule?

A final rule sets out new or revised requirements and their effective date. It also may remove requirements. When preceded by an NPRM, a final rule will also identify significant substantive issues raised by commenters in response to the NPRM and give the agency's response.

- *Pratt & Whitney accepts the proposed language for this section.*

11.25

- FAA proposed language:
What is a direct final rule?

A direct final rule is a final rule that will take effect on a specified date unless FAA receives an adverse comment or notice of intent to file an adverse comment within the comment period -- generally 60 days after the direct final rule is published in the Federal Register. An adverse comment explains why a rule would be inappropriate, or would be ineffective or unacceptable without a change. It may challenge the rule's underlying premise or approach. Under the direct final rule process, we do not consider the following types of comments to be adverse:

- (a) A comment recommending another rule change, in addition to the change in the direct final rule at issue. We consider the comment adverse, however, if the commenter states why the direct final rule would be ineffective without the change.
- (b) A frivolous or insubstantial comment.

- *Pratt & Whitney does not accept the proposed language for this Section and recommends the following changes:*
 - *The paragraph be rewritten as follows: “A direct final rule is a final rule that will take effect on a specified date unless FAA receives an adverse comment or notice of intent to file an adverse comment within the comment period -- 60 days after the direct final rule is published in the Federal Register. An adverse comment explains why a rule would be inappropriate, or would be ineffective or unacceptable without a*

change. It may challenge the rule's underlying premise or approach. Under the direct final rule process, we do not consider the following types of comments to be adverse:"

- *Reason: Pratt & Whitney believes a consistent time period for filing of or notification of intent to file adverse comments should be established. The word "generally" is ambiguous and may not allow sufficient time for interested parties to file.*
- *The terms "frivolous" and "insubstantial" be defined in the "Definitions used in this Part" section proposed in the Pratt & Whitney's general comments section of its response, be removed, or clarified via examples of what the FAA considers "frivolous or insubstantial" comments.*
- *Reason: Both terms are ambiguous and may lead to conflict regarding what is or is not frivolous or insubstantial between the Agency and a filer. Clear definitions of the terms or examples that would clarify the definitions would provide guidelines and may eliminate potential disagreements.*

11.27

- FAA proposed language:

How does FAA process direct final rules?

- (a) We will publish a confirmation document in the Federal Register, generally within 15 days after the comment period closes, if we have not received an adverse comment or notice of intent to file an adverse comment. The confirmation document tells the public the effective date of the rule.
 - (b) If we receive an adverse comment or notice of intent to file an adverse comment, we will advise the public by publishing a document in the Federal Register before the effective date of the direct final rule. This document will withdraw the direct final rule in whole or in part. If we withdraw a direct final rule because of an adverse comment, we may incorporate the commenter's recommendation into another direct final rule or may publish a notice of proposed rulemaking.
- *Pratt & Whitney does not accept the proposed language and recommends the following:*
 - *Paragraph (a) be rewritten as follows: "We will publish a confirmation document in the Federal Register, within 15 days after the comment period closes, if we have not received an adverse comment or notice of intent to file an adverse comment. The confirmation document tells the public the effective date of the rule."*
 - *Paragraph (b) be rewritten as follows: "If we receive an adverse comment or notice of intent to file an adverse comment, we will advise the public by publishing a document in the Federal Register within a timely period after receiving the adverse comment and before the effective date of the direct final rule. This document will withdraw the direct final rule in whole or in part. If we withdraw a direct final rule because of an adverse comment, we may incorporate the commenter's*

recommendation into another direct final rule or may publish a notice of proposed rulemaking.”

- *Reason: By publishing the document in a timely period following the receipt of the adverse comment, it may prevent affected members of the industry from beginning or completing any changes necessary to comply with a rule that is going to be withdrawn or rewritten. As currently written, this could cause the industry to incur unnecessary costs.*

11.29

- FAA proposed language:
What is a final rule with request for comments?

The FAA usually issues a final rule with request for comments when we issue an immediately adopted final rule. We invite comments on an immediately adopted final rule only if we think that we will receive useful information. We would not invite comments, for example, when we are just making an editorial clarification or correction.

- *Pratt & Whitney does not agree with the proposed language for this section and recommends the following:*
 - *The question be rewritten to read: “What is an “immediately adopted” final rule?”*
 - *Reason: Pratt & Whitney believes this would clarify the intent and topic of this section.*
 - *The definition be moved to the definition section proposed in the general comments section of Pratt & Whitney’s response.*
 - *Reason: Pratt & Whitney believes this would add to the readability of the document.*
 - *The criteria for not requesting comments for immediately adopted final rules be strictly limited to editorial clarifications or corrections*
 - *Reason: Pratt & Whitney believes the public should be involved through the ANRPM/NRPM process for all rule changes except those “just making an editorial clarification or correction” as stated in the proposed language.*

11.31

- FAA proposed language:
How can I track FAA's rulemaking activities?

The following identifying numbers allow you to track FAA's rulemaking activities:

- (a) Docket number. We assign an identifying number, called a docket number, to each rulemaking proceeding. Each rulemaking document that FAA issues in a

particular rulemaking proceeding will display the same docket number. This number allows you to do the following:

- (1) Associate related documents that appear in the Federal Register.
- (2) Search DOT's Docket Management System (DMS) for information on some rulemaking proceedings -- including notices of proposed rulemaking, public comments, appeals, records of additional rulemaking proceedings and final rules. The DMS does not contain information on Airworthiness Directives or Airspace Actions. There are two ways you can search the DMS:
 - (i) Visit the public docket room and review and copy any docketed materials during regular business hours. The DOT Docket Management System is located at the U.S. Department of Transportation, Plaza Level 401, 400 7th Street, SW, Washington, DC 20590-0001.
 - (ii) View and download docketed materials through the Internet at <http://dms.dot.gov>.
- (b) Regulation identifier number. DOT publishes a semiannual agenda of all current and projected DOT rulemakings, reviews of existing regulations, and completed actions. This semiannual agenda appears in the Unified Agenda of Federal Regulations which is published in the Federal Register in April and October of each year. The semiannual agenda tells the public about DOT's--including FAA's--regulatory activities. DOT assigns a regulation identifier number (RIN) to each individual rulemaking proceeding in the semiannual agenda. This number appears on all rulemaking documents published in the Federal Register and makes it easy for you to track those rulemaking proceedings in both the Federal Register and the semiannual regulatory agenda itself.

- *Pratt & Whitney accepts the proposed language for this section.*

11.33

- FAA proposed language:
Does FAA include sensitive security information in the DMS?

No. For proposed rule changes involving civil aviation security, FAA reviews comments as we receive them. If we find that a comment contains sensitive security information, we remove that information before placing the comment in the docket.

- *Pratt & Whitney does not support the language for this section and recommends that proprietary and/or confidential business information be added to the question and exclusion from publication.*
- *Reason: Often, the use of proprietary and/or confidential business information can assist in the evaluation of a proposed rule; however, public disclosure of that information can be detrimental to the submitter.*

11.35

- FAA proposed language:
Where can I find information about an Airworthiness Directive, an airspace designation, or a petition handled in a region?

To get information about rulemaking actions undertaken in FAA's regions, contact the person listed under "FOR FURTHER INFORMATION CONTACT" in the Federal Register document about the action.

- *Pratt & Whitney accepts the proposed language for this section.*

11.37

- FAA Proposed language:
How may I participate in FAA's rulemaking process?

You may participate in FAA's rulemaking process by doing any of the following:

- (a) File written comments on any rulemaking document that asks for comments, including an advance notice of proposed rulemaking, notice of proposed rulemaking, direct final rule, or a final rule with request for comments.
- (b) Ask that we hold a public meeting on any rulemaking, and participate in any public meeting that we hold.
- (c) File a petition for rulemaking that asks us to adopt, amend, or repeal a regulation.
- (d) File an appeal that asks us to reexamine our decision to issue all or part of a final rule or direct final rule.

- *Pratt & Whitney accepts the proposed language for this section.*

Written Comments

11.41

- FAA proposed language:
Who may file comments?

Anyone may file written comments about proposals and final rules that request public comments.

- *Pratt & Whitney does not support the proposed language for section and recommends the paragraph be rewritten as follows: "Any party at interest may file written comments about proposals and final rules that request public comments."*
- *Reason: As stated in the reason for Section 11.29, Pratt & Whitney firmly supports the public's involvement in the rulemaking process. However, believes it should limited to those that have a specific interest. The intent would be to reduce frivolous comments that would waste resources.*

11.43

- FAA proposed language:
What information must I put in my written comments?

Your comments must be in English and must contain the following:

- (a) The docket number of the rulemaking document you are commenting on, clearly set out at the beginning of your comments.
 - (b) Your name, mailing address, and, if you wish, other contact information, such as a fax number, telephone number, or e-mail address.
 - (c) Information, views, or arguments that follow the instructions for participation that appear in the rulemaking document on which you are commenting.
 - (d) All available material that is relevant to any statement of fact in your comments.
 - (e) The document title and page number of any material that you reference in your comments.
- *Pratt & Whitney accepts the proposed language for this section. However, consistent with our comment in Section 11.41, we recommend the addition of a new paragraph (f) to this section. The new paragraph (f) should read as follows: "A statement as to the interest of the submitter to the particular rulemaking."*

11.45

- FAA proposed language:
Where and when do I file my comments?

- (a) Send your comments to the location specified in the rulemaking document on which you are commenting. If you are asked to send your comments to the Docket Management System, you may send them in either of the following ways:

- (1) By mail to:

U.S. Department of Transportation
Docket Management System
400 7th Street, SW.
Plaza Level 401
Washington, DC 20591

- (2) Through the Internet to <http://dms.dot.gov>.

- (b) Make sure that your comments reach us by the deadline set out in the rulemaking document on which you are commenting. We will consider late-filed comments to the extent possible only if they do not significantly delay the rulemaking process.
 - (c) We may reject your paper or electronic comments if they are frivolous, abusive, or repetitious. We may reject comments you file electronically if you do not follow the electronic filing instructions at the website.
- *Pratt & Whitney does not support the proposed language for this section and recommends the following:*

- *The following subparagraph be added to paragraph (a)*
 - *(3) Any other means designated by the FAA*
 - *Reason: This allows the FAA the ability to designate an alternate method for submittal of comments.*
- *Paragraph (c) be split into two paragraphs (c) & (d). Paragraph (c) be rewritten as follows: “We may reject your paper or electronic comments if they are frivolous, abusive, or repetitious.”*
- *New paragraph (d) be written as follows: “We will publish instruction for electronic filing in the ANPRM/NPRM and on the website. We may reject comments you file electronically if you do not follow the published electronic filing instructions.”*
- *Reason: Pratt & Whitney believes the proposed changes provides flexibility for filing and ensures commenters have clear instructions for filing.*

11.47

- **FAA proposed language:**
May I ask for more time to file my comments?

Yes. If FAA grants your request for more time to file comments, we grant all persons the same amount of time. We will notify the public of the extension by a document in Federal Register. If FAA denies your request, we will notify you of the denial. To ask for more time, you must file a written or electronic request for extension at least ten days before the end of the comment period. Your letter or message must:

- (a) Show the docket number of the rule at the top of the first page.
 - (b) Begin by stating that you are requesting an extension of the comment period.
 - (c) Show that you have good cause for the extension and that an extension is in the public interest.
 - (d) Send your request to the address specified for comments in the rulemaking document that you wish to comment on.
- *Pratt & Whitney accepts the proposed language for subparagraphs (a) – (d), however recommends the main paragraph for this section be rewritten as follows: “Yes. If FAA grants your request for more time to file comments, we grant all persons the same amount of time. We will notify the public in a timely period of the extension by a document in Federal Register. If FAA denies your request, we will notify you in a timely period of the denial and the reason we have denied the request. To ask for more time, you must file a written or electronic request for extension at least ten days before the end of the comment period. Your letter or message must:”*
 - *Reason: Pratt & Whitney’s parent, United Technologies Corporation, recently requested a ninety-day extension to comment on NPRM 145. The Corporation did not receive notification of or reason for the denial. We firmly believe that timely*

notifications and the provision of the reasons for denials will enhance the relationship between the Agency and the industry.

Public Meetings And Other Proceedings

11.51

- FAA Proposed language:
May I request that FAA hold a public meeting on a rulemaking action?

Yes. You may request that we hold a public meeting. FAA holds a public meeting when we think that we need more than written comments to make a fully informed decision. You should submit your request in writing to the address specified for comments in the rulemaking document that you wish to comment on. Specify at the top of your letter or message that you are requesting that the agency hold a public meeting. Submit your request no later than 30 days after our rulemaking notice. If we find that we have good cause for a meeting we will notify you and publish a notice of the meeting in the Federal Register.

- *Pratt & Whitney does not support the proposed language for this section and recommends the following: The time allowed for submitting a request for public hearings be extended to 60 days and the request be published in the public domain.*
- *Reason: This will allow potential requestors adequate to time to review complex and comprehensive rulemaking actions to determine if a public hearing would be beneficial.*

11.53

- FAA proposed language:
What takes place at a public meeting?

A public meeting is a non-adversarial, fact-finding proceeding conducted by an FAA representative. Public meetings are announced in the Federal Register. We invite interested persons to attend and to present their views to the agency on specific issues. There are no formal pleadings and no adverse parties, and any regulation issued afterward is not necessarily based exclusively on the record of the meeting. Sections 556 and 557 of the Administrative Procedure Act (5 U.S.C. 556 and 557) do not apply to public meetings under this part.

- *Pratt & Whitney accepts the proposed language for this section.*

Petitions for Rulemaking and for Exemption

11.61

- FAA proposed language:
May I ask FAA to adopt, amend, or repeal a regulation, or grant relief from the requirements of a current regulation?

Yes.

If you want...	Then you must submit...
(a) to adopt, amend, or repeal a regulation,	a petition for rulemaking.
(b) relief from the requirements of a current regulation,	a petition for exemption.

- *Pratt & Whitney accepts the proposed language for this section.*

11.63

- FAA proposed language:
Where and to whom do I submit my petition for rulemaking or petition for exemption?
- (a) For paper submissions, send one original signed and two copies of your petition for rulemaking or exemption to the following postal address, except as provided in paragraph (c) of this section for petitions pertaining to parts 39 and 139 of this chapter, or airspace designations:
- Federal Aviation Administration
Office of Rulemaking (ARM-1)
800 Independence Avenue, SW
Washington, DC 20591
- (b) For electronic submissions, send one original to the following electronic address, except as provided in paragraph (c) of this section for petitions pertaining to parts 39 and 139 of this chapter, or airspace designations:

Send your...	to...
(1) petition for rulemaking	To Be Announced
(2) petition for exemption	To Be Announced

- (c) For petitions pertaining to parts 39 and 139 of this chapter, or airspace designations submit one original signed and two copies of your petition for rulemaking or petition for exemption to the following offices:

Send your petitions concerning...	To the...
(1) Part 39: Airworthiness Directives	Certification Directorate having airworthiness responsibility for the product involved.
(2) Part 139: Certification of Airports	appropriate FAA airport field office in whose area the petitioner proposes to establish or has established its airport.
(3) Class D or E airspace designation	manager of the Air Traffic Division in the FAA region involved.
(4) any other airspace designation	Associate Administrator for Air Traffic (ATS-1) Federal Aviation Administration 800 Independence Avenue, SW Washington, DC 20591

- *Pratt & Whitney accepts the proposed language for this section, however recommends the addition of a new subparagraph (d) to read as follows: “Any other method designated by the FAA and noted in writing in the Federal Register or other public domain area.”*
- *Reason: As mentioned in Section 11.45, Pratt & Whitney believes this will add flexibility for the FAA to designate alternate methods for submittal of petitions, etc.*

11.71

- FAA proposed language:
What information must I include in my petition for rulemaking?
 - (a) You must include the following information in your petition for rulemaking:
 - (1) Your name and mailing address and, if you wish, other contact information such as a fax number, telephone number, or e-mail address.
 - (2) An explanation of your proposed action and its purpose.
 - (3) The language you propose for a new or amended rule, or the language you would remove from a current rule.
 - (4) An explanation of why your proposed action would be in the public interest.
 - (5) Information and arguments that support your proposed action, including relevant technical and scientific data available to you.

- (6) Any specific facts or circumstances that support or demonstrate the need for the action you propose.
- (b) In the process of considering your petition, we may ask that you provide information or data available to you about the following:
 - (1) The costs and benefits of your proposed action to society in general, and identifiable groups within society in particular.
 - (2) The regulatory burden of your proposed action on small businesses, small organizations, small governmental jurisdictions, and Indian tribes.
 - (3) The recordkeeping and reporting burdens of your proposed action and whom they would affect.
 - (4) The effect of your proposed action on the quality of the natural and social environments.
- *Pratt & Whitney accepts the proposed language for this section, however recommends the following:*
 - *The FAA make provisions for the separation between the entity filing the petition and the person submitting the document on behalf of the entity. This action should also be taken on the DMS website.*
 - *Reason: By not differentiating between the person submitting the document and the entity for which the document is being submitted could lead to confusion for both the Agency and the industry as there may be no linkage between the submitter and the Agency's records of affected parties. This was the case for our corporation, United Technologies Corporation in our submittal to NPRM 145.*
 - *A new subparagraph (6) be added to paragraph (a). The new subparagraph (6) should read as follows: "A statement as to the interest of the submitter to the particular rulemaking."*
 - *Reason: Pratt & Whitney believes that only persons with an interest in the subject matter of the rulemaking be eligible to make comments.*
 - *A new subparagraph (5) be added to paragraph (b) of this section. Pratt & Whitney recommends the new paragraph read as follows: "The FAA will not publish information that has been declared proprietary and/or confidential business information by the submitter."*
 - *Reason: Information submitted to support a petition might contain competitive or other sensitive information that may be detrimental to the submitter if published in the public domain.*

11.73

- FAA proposed language:
How does FAA process petitions for rulemaking?

The FAA may respond to your petition for rulemaking in one of the following ways:

- (a) If we determine that your petition justifies our taking the action you suggest, we may issue an NPRM or ANPRM. We will do so no later than 6 months after the date we receive your petition. In making our decision, we consider:
 - (1) The immediacy of the safety or security concerns you raise;
 - (2) The priority of other issues the FAA must deal with; and
 - (3) The resources we have available to address these issues.
 - (b) We may dismiss your petition for rulemaking in the following circumstances:
 - (1) If we already have issued an ANPRM or NPRM on the subject matter of your petition, we will consider your arguments for a rule change as a comment in connection with the rulemaking proceeding. We will not treat your petition as a separate action.
 - (2) If we already have begun a rulemaking project in the subject area of your petition, we will consider your comments and arguments for a rule change as part of that project. We will not treat your petition as a separate action.
 - (3) If we have tasked the Aviation Rulemaking Advisory Committee (ARAC) to study the general subject area of your petition, we may ask the ARAC to review and evaluate your proposed action. We will not treat your petition as a separate action.
 - (4) If we determine that the issues you identify in your petition may have merit but do not address an immediate safety concern or cannot be addressed because of other priorities and resource constraints, we may dismiss your petition.
- *Pratt & Whitney accepts the proposed language for paragraph (a) and its subparagraphs. However recommends the following changes to subparagraphs (3) and (4) of paragraph (b).*
 - *Subparagraph (3) be rewritten as follows: “If we have tasked the Aviation Rulemaking Advisory Committee (ARAC) to study the general subject area of your petition, we will ask the ARAC to review and evaluate your proposed action. We will not treat your petition as a separate action.”*
 - *Reason; Pratt & Whitney believes any information or requests the FAA receives regarding a subject the FAA has tasked an ARAC to study should be passed to the ARAC for review and consideration.*
 - *Subparagraph (4) be eliminated or the FAA publish in this document the method by which it establishes priorities, and publish in the Federal Register or in the public domain the list of its priorities in order of importance. In addition, the FAA should publish the denial and the reason for the denial in the Federal Register or other site in the public domain.*
 - *Reason: Pratt & Whitney recognizes the issues associated with limited resources, however, does not believe this should be just cause for dismissing a petition. Pratt & Whitney also believes the Agency can further assist the public in understanding its operation by publishing the list of projects and the method of selection. In addition, as Pratt & Whitney stated in Sections 11.15 and 11.47, the Agency should publish the reason/s for denials so as to keep the public better informed.*

11.75

- FAA proposed language:
Does FAA invite public comment on petitions for rulemaking?

Generally, FAA does not invite public comment on petitions for rulemaking.

- *Pratt & Whitney Accepts the proposed language for this section.*

11.77

- FAA proposed language:
Is there any additional information I must include in my petition for designating airspace?

In petitions asking FAA to establish, amend, or repeal a designation of airspace, including special use airspace, you must include all the information specified by § 11.71 and also:

- (a) The location and a description of the airspace you want assigned or designated;
 - (b) A complete description of the activity or use to be made of that airspace, including a detailed description of the type, volume, duration, time, and place of the operations to be conducted in the area;
 - (c) A description of the air navigation, air traffic control, surveillance, and communication facilities available and to be provided if we grant the designation; and
 - (d) The name and location of the agency, office, facility, or person who would have authority to permit the use of the airspace when it was not in use for the purpose to which you want it assigned.
- *Pratt & Whitney Accepts the proposed language for this section.*

11.81

- FAA proposed language:
What information must I include in my petition for an exemption?

You must include the following information in your petition for an exemption.

- (a) Your name and mailing address and, if you wish, other contact information such as a fax number, telephone number, or e-mail address.
- (b) The specific section or sections of 14 CFR from which you seek an exemption.
- (c) The extent of relief you seek, and the reason you seek the relief.
- (d) The reasons why granting your request would be in the public interest; that is, how it would benefit the public as a whole.

- (e) The reasons why granting the exemption would not adversely affect safety, or how the exemption would provide a level of safety at least equal to that provided by the rule from which you seek the exemption.
- (f) Any additional information, views or arguments available to support your request, and
- (g) A summary we can publish in the Federal Register, stating:
 - (1) The rule from which you seek the exemption; and
 - (2) A brief description of the nature of the exemption you seek.
- (h) Whether you want to exercise the privileges of your exemption outside the United States.

- *Pratt & Whitney accepts the proposed language for paragraphs (b), (c), (d), (e), (g), and (h). However we recommend the following changes to paragraphs (a), & (f):*

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- *Paragraph (a) should be rewritten as follows: “The name and address of the entity submitting the petition, the name and title of the individual submitting the document on behalf of the entity, if appropriate, and, other contact information such as fax number, telephone number, or e-mail address of the contact regarding the submittal.”*
- *Reason: Pratt & Whitney believes this will eliminate any confusion that may arise due to the person submitting the information not being the entity for which the submittal is being made. See reason in Section 11.71.*
- *Paragraph (f) be rewritten as follows: “Any additional information, views or arguments available to support your request including the benefit to the petitioner, and”*
- *Reason: Pratt & Whitney believes that by incorporating the proposed language it will add a dimension to the supporting information by including specific comments on the benefits to the petitioner.*

11.83

- FAA proposed language:
Are exemptions FAA grants under this part valid outside the United States?

No. Exemptions FAA issues under this part normally do not apply outside the United States. If you want to be able to use your exemption outside the United States, you must request this when you petition for relief. We will verify whether operating under the exemption would be in compliance with the standards of the International Civil Aviation Organization (ICAO). If it would not, but we still believe it would be in the public interest to allow you to do so, we will file a difference with ICAO.

- *Pratt & Whitney accepts the proposed language for this section.*

11.85

- FAA proposed language:

Does FAA invite public comment on petitions for exemption?

Yes. FAA publishes information about petitions for exemption in the Federal Register.

The information includes:

- (a) The docket number of the petition;
- (b) The citation to the rule or rules from which the petitioner requested relief;
- (c) The name of the petitioner;
- (d) The petitioner's summary of the action requested and the reasons for requesting it; and
- (e) A request for comments to assist FAA in evaluating the petition.

- *Pratt & Whitney accepts the proposed language for this section. However, we recommend the addition of a new paragraph (f) to read as follows: "A statement as to the interest of the submitter to the particular rulemaking."*
 - *Reason: This will allow the FAA and public understand the perspective of the comment/s.*

11.87

- FAA proposed language:
Are there circumstances in which FAA may decide not to publish a summary of my petition for exemption?

The FAA may not publish a summary of your petition for exemption and request comments if you present or we find good cause why we should not delay action on your petition. The factors we consider in deciding not to request comment include:

- (a) Whether granting your petition would set a precedent.
 - (b) Whether the relief requested is identical to exemptions granted previously.
 - (c) Whether our delaying action on your petition would affect you adversely.
 - (d) Whether you filed your petition in a timely manner.
- *Pratt & Whitney accepts the proposed language for paragraphs (b), (c), & (d). However, recommends the following:*
 - *Paragraph (a) be eliminated.*
 - *Reason: Pratt & Whitney believes that whether a petition sets a precedent or not should not have any bearing on the publication of the summary.*
 - *New paragraph be added that reads as follows: "When the summary contains information that has been declared by the submitter to be proprietary and/or confidential business information."*
 - *Reason: See reasons in Sections 11.71 and 11.81.*

11.89

- FAA proposed language:
How much time do I have to submit comments to FAA on a petition for exemption?

The FAA states the specific time allowed for comments in the Federal Register notice about the petition. We usually allow 20 days to comment on a petition for exemption.

- *Pratt & Whitney does not support the proposed language for this section and recommends the paragraph be rewritten as follows: “The FAA states the specific time allowed for comments in the Federal Register notice about the petition. We will allow minimum of 30 days to comment on a petition for exemption.”*
 - *Reason: 20-calendar day only allows 15 working days to review the petition and prepare comments. Pratt & Whitney believes a minimum of 30 calendar days would allow for a more thorough review of the petition and the preparation of more substantive comments.*

11.91

- FAA proposed language:
What information does FAA publish when it grants or denies my petition for exemption?

When FAA grants or denies your petition for exemption, we publish a summary in the Federal Register that includes:

- The docket number of your petition;
 - Your name;
 - The citation to the rules you wanted to change, or from which you requested relief;
 - A brief description of the general nature of the change or relief requested;
 - Whether FAA granted or denied the request;
 - The date of FAA's decision; and
 - An exemption number.
- *Pratt & Whitney accepts the proposed language for paragraphs (a), (c), (d), (f), & (g). However, recommends the following:*
 - *Paragraph (b) be rewritten to read as follows: “Name of the entity for which the petition was submitted.”*
 - *Reason: To eliminate any confusion between the entity for which the petition was submitted and the person submitting the information or request.*
 - *Paragraph (e) be rewritten as follows: “ Whether the FAA granted or denied the request and the reason for its action;”*
 - *Reason: The petitioner and industry should understand why the FAA took a specific action so as to prepare a substantive response to the action, if appropriate, and to improve the supporting information on future submittals.*

11.101

- FAA proposed language:

Can I ask FAA to reconsider my petition for rulemaking or petition for exemption if it is denied?

Yes. You may petition FAA to reconsider your petition denial. You must submit your request to the address to which you sent your original petition, and FAA must receive it within 60 days after we issued the denial. For us to accept your petition, show the following:

- (a) That you have a significant additional fact and why you did not present it in your original petition;
 - (b) That we made an important factual error in our denial of your original petition; or
 - (c) That we did not correctly interpret a law, regulation, or precedent.
- *Pratt & Whitney accepts the proposed language for this section.*

Subpart B--Paperwork Reduction Act Control Numbers

11.201

- FAA proposed language:

OMB control numbers assigned pursuant to the Paperwork Reduction Act.

[NOTE: The text of this section will be updated and will appear in full in the final rule]
Issued in Washington, DC on December 8, 1999.

- *Pratt & Whitney has no comment on this section.*